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In the Supreme Court of the United States

OCTOBER TERM, 1934

No. 107

OLD MISSION PORTLAND CEMENT COMPANY, A Corporation, petitioner

v.

GUY T. HELVERING, COMMISSIONER OF INTERNAL REVENUE

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES CIRCUIT COURT OF APPEALS FOR THE NINTH CIRCUIT

BRIEF FOR THE RESPONDENT IN OPPOSITION

OPINIONS BELOW

The opinion of the Board of Tax Appeals (R. 77–90) is reported in 25 B.T.A. 305. The opinion of the Circuit Court of Appeals (R. 341–355) is reported in 69 F. (2d) 676.

JURISDICTION

The judgment of the Circuit Court of Appeals was entered March 12, 1934. (R. 355–356.) The

petition for a writ of certiorari was filed June 12, 1934. Jurisdiction is conferred on this Court by Section 240 (a) of the Judicial Code, as amended by the Act of February 13, 1925.

QUESTIONS PRESENTED

1. In a proceeding before the Board of Tax Appeals does the taxpayer overcome the *prima facie* correctness of the Commissioner's determination of the fair market value of property as of March 1, 1913, by showing that the method employed by the Commissioner in arriving at such value is incorrect?

2. Is the Board of Tax Appeals bound to accept opinion testimony of the taxpayer's witnesses concerning the fair market value of property, notwithstanding the fact that such testimony is opposed by the Commissioner's determination and is contradicted in part by facts disclosed by the record?

3. Whether the amortization of bond discount on the bonds of the taxpayer's affiliate held by the taxpayer should be deducted in computing the consolidated net income of the affiliated companies for the years 1923 to 1926, inclusive.

4. Whether the taxpayer may deduct as business expenses, donations to the San Francisco Community Chest and an amount paid to a fund to promote a referendum for an increased gasoline sales tax levy in order to provide additional funds for road building.

STATUTES AND REGULATIONS INVOLVED

The statutes and regulations involved are set forth in the Appendix, *infra,* pp. 14–22.

STATEMENT

The facts found by the Board of Tax Appeals may be summarized as follows:

The taxpayer is a California corporation, organized in 1912 for the purpose of engaging in the manufacture of Portland cement, with an authorized capital of 350,000 shares of common stock of a par value of $10 per share. It is the successor of the San Juan Portland Cement Company incorporated in 1906 and was organized by bondholders of the latter, which defaulted payment of interest upon its bonds in the amount of $1,300,000. At a sheriff's sale the bondholders purchased all of the assets of the company for $20,700. (R. 61.)

The assets so acquired included limestone deposits known as the Barbee, Underwood and Flint deposits, about 88 miles south of San Francisco, stocks and bonds of the San Juan Pacific Railway Company which connected the deposits with the Southern Pacific Railway (a distance of 7 miles), the Chittenden Ranch, and an unfinished cement plant. (R. 61–62.)

Thereafter the bondholders' committee organized the California Central Railroad Company and received its stocks and bonds in exchange for stocks and bonds of the San Juan Pacific Railway Company. (R. 62.)

The taxpayer was then organized and in exchange for 175,000 shares of its stock acquired from the committee the physical assets of the old cement corporation, including the lands (2,463 acres) containing the deposits. The plant was not finished until 1916 and production began in 1918. The deposits were exhausted in 1927. (R. 62.)

The taxpayer claimed deductions for depletion at the rate of ten cents per ton in its income tax returns for 1918 to 1921, inclusive, and at the rate of twenty cents per ton in its returns for 1922 to 1925, inclusive, though in a schedule submitted with the latter returns it suggested that this was the proper rate for these and additional deposits combined and the proper rate for these deposits alone would be seventy-nine cents per ton based on a fair market value of $1,034,398.10 as of March 1, 1913, and estimated tonnage of 1,314,243.62 tons. (R. 62–68.)

During a period in 1920 and 1921 the taxpayer purchased lime rock for ten cents per ton. (R. 64, 83.)

The Commissioner allowed a depletion rate of 3.713 cents per ton by fixing the March 1, 1913 value of the limestone deposits at $63,121 and the content at 1,700,000 tons. (R. 68.)

The taxpayer questioned the fair market value determined by the Commissioner in its appeal to the Board, but the Board sustained the Commissioner's determination.

In its returns for 1923, 1924, 1925 and 1926 the taxpayer claimed deductions of $1,000 for contributions to the San Francisco Community Chest. (R. 69.) The Chest represented several charitable organizations, gifts to the Chest being apportioned among the organizations. (R. 72.) In the return for 1926, the taxpayer deducted the sum of $3,000 listed as a donation (R. 71) to "All California Highway Lobbying", which represented a contribution to a state-wide referendum for increasing the gasoline tax for the purpose of road building. (R. 75.)

The Commissioner disallowed these deductions and upon appeal, the Board sustained the Commissioner's determination.

During the taxable years 1923 to 1926, inclusive, the taxpayer was affiliated with the California Central Railroad Company and the San Juan Pacific Railway Company, and the three corporations filed consolidated returns. The books of the affiliated companies were kept and consolidated income tax returns filed on the accrual basis. (R. 76.)

In 1912 the California Central Railroad Company issued its own bonds at a discount. The amount of amortization applicable to each of the years 1923 to 1926, inclusive, is $3,381.18. In computing the consolidated net income the Commissioner allowed as deductions for bond discount $375.99 for each of the years 1923, 1924 and 1925 and $220.79 for 1926. The amount disallowed rep-

resents the amortization of bond discount applicable to bonds owned by the taxpayer. (R. 76–77.) The Board sustained the Commissioner.

As the result of these and other adjustments not here involved the Board determined deficiencies of $4,298.02, $4,582.09, $5,617.12 and $7,190.98 for the years 1923, 1924, 1925 and 1926, respectively. (R. 92–94.)

The Circuit Court of Appeals approved the Board's determination except with respect to a deduction of a donation to the Y.M.C.A. which the Board had disallowed. The Commissioner has filed no petition with respect to that item.

ARGUMENT

I

The Commissioner determined that the limestone deposits of the taxpayer had a fair market value of $63,121 as of March 1, 1913, for purposes of depletion. The Board and the court below sustained this determination.

The taxpayer seeks to have this Court review this issue of fact upon which both tribunals below have agreed by raising certain questions as to whether the method used by the Commissioner in arriving at his valuation is correct, whether there is evidence to support the Commissioner's determination and whether the opinion testimony of the taxpayer's witnesses who testified to a much greater value does not represent the preponderance of evidence and was not therefore controlling.

We submit that the principles governing all of these matters are too well settled to require further consideration by this Court at this time.

The Commissioner's determination of the fair market value of the property is *prima facie* correct. *Reinecke* v. *Spalding,* 280 U.S. 227; *Welch* v. *Helvering,* 290 U.S. 111; *Alexander Sprunt & Son* v. *Commissioner,* 64 F. (2d) 424 (C.C.A. 4th); *J. & O. Altschul Tobacco Co.* v. *Commissioner,* 42 F. (2d) 609 (C.C.A. 5th); *Crowell* v. *Commissioner,* 62 F. (2d) 51 (C.C.A. 6th); *Helvering* v. *Gregory,* 69 F. (2d) 809 (C.C.A. 2d). The burden rests upon the taxpayer to prove all facts necessary to show that he was entitled to the deduction claimed. *Brown* v. *Helvering,* 291 U.S. 193.

This case presents the same questions concerning whether the Board is bound by the opinion testimony of experts and whether the preponderance of evidence rule applies before the Board that were presented in the petition for a writ of certiorari in the case of *Gloyd* v. *Commissioner,* No. 96, October Term, 1933. (See the opinion of the Circuit Court of Appeals for the Eighth Circuit, 63 F. (2d) 649.) This Court denied certiorari in that case (290 U.S. 633). Moreover, since this Court's decision in *Dayton Power & Light Co.* v. *Public Utilities Commission,* No. 609, October Term, 1933, decided April 30, 1934, there can be no doubt that the Board is not bound to accept the opinion evidence of experts.

Furthermore, this is not a case where the Board must choose between the Commissioner's determination and the uncontradicted opinion testimony of the taxpayer's witnesses. The record discloses facts concerning the price at which similar limestone deposits were sold (R. 147–148), evidence concerning the selling price of stock which was issued in exchange for the deposits and other assets (R. 324–331), and evidence concerning the royalty rate paid for California limestone (R. 83), which show that the valuation of the taxpayer's witnesses and the depletion rate fixed by them were far too high, and which tend to support the Commissioner's determination.

The taxpayer also urges that because the Commissioner introduced in evidence a schedule concerning depletion which the taxpayer had filed, the Commissioner is bound by the depletion rate of seventy-nine cents which was established by a computation in that schedule; again that the introduction of returns in which the taxpayer claimed a depletion rate of ten cents bound the Commissioner to that rate. He cites *Leach* v. *Burr,* 17 App.D.C. 128, 142; *Lyon* v. *Bursey,* 36 App.D.C. 235, and other cases holding that the party introducing documentary evidence is absolutely bound by it and cannot contradict or impeach it.

We submit that the rule referred to and the cases cited do not support the proposition for which they

are cited. The returns and schedule which were admitted in evidence were statements of the taxpayer as to what its taxes were and not adjudications of its tax liability. As the court below held, they were relied upon as admissions against interest and were clearly admissible for that purpose.

II

The taxpayer also claims that the court below erred in refusing to permit it to deduct donations to the San Francisco Community Chest.

While the statutes involved do not allow corporations the deduction for charitable contributions granted to individuals,[1] corporations may deduct donations which constitute ordinary and necessary business expenses under Section 234 (a) (1) of the Revenue Acts of 1921, 1924 and 1926 (*infra,* pp. 14, 17, 18).

The donations must represent both "ordinary" and "necessary" expenses. *Welch* v. *Helvering, supra.* Article 562 of Regulations 62, 65 and 69 (*infra,* pp. 19, 20, 22), provide that donations which legitimately represent a consideration for a benefit flowing directly to a corporation as an incident of its business are allowable deductions from gross income. Since this regulation has been in force under several revenue laws containing the same provision as to the deduction of business expenses by corporations, it has the force of law. *McCaughn*

[1] See Section 214 (a) (11) of the Revenue Act of 1921 and Section 214 (a) (10) of the Revenue Acts of 1924 (U.S.C., Title 26, Sec. 955) and 1926 (U.S.C.App., Title 26, Sec. 955).

v. *Hershey Chocolate Co.*, 283 U.S. 488; *Brewster* v. *Gage*, 280 U.S. 327; *Mass. Mutual Life Ins. Co.* v. *United States*, 288 U.S. 269.

In the present case the taxpayer failed to prove that anything other than an indefinite and indirect benefit was expected from the contributions to the Community Chest. The case is not identical with *Evening Star Newspaper Co.* v. *Commissioner*, 28 B.T.A. 762, relied upon by the taxpayer, for in the latter case there was some evidence that the newspaper has organized the Chest and relied upon it as a principal means of advertising. In any event the Government has not accepted that decision and an appeal is now pending before the Circuit Court of Appeals for the Fourth Circuit. In *Capital Traction Co.* v. *Commissioner*, 27 B.T.A. 926, a donation to a community chest was disallowed by the Board where there was no evidence of a direct benefit. That case is pending on appeal before the United States Court of Appeals for the District of Columbia.

The different results reached in the numerous cases on this question are due to differences in the facts. The instant case is in harmony with the regulations and with the cases involving similar facts. Hence, there is no conflict which justifies review by this Court.

III

The taxpayer also claims as a business expense for 1926, a contribution of $3,000 to a state-wide campaign for a referendum to increase the gasoline

tax for the purpose of road building. (R. 75, 265.) The referendum was successful and the State of California undertook a large road-building program involving the use of cement and other materials. This represented an expense which the taxpayer's witness conceded was a kind of "lobbying" expense. (R. 265.) It was so characterized on the return. (R. 71.)

Article 562 of Regulations 62, 65 and 69 (*infra*, pp. 19, 20, 22), specifically provides that sums of money expended for lobbying purposes and the promotion and defeat of legislation are not deductible. This provision also appeared in Article 562 of Regulations 45, promulgated under the Revenue Act of 1918, and hence had received legislative approval before any of the taxable years here involved. *McCaughn* v. *Hershey Chocolate Co., supra; Brewster* v. *Gage, supra; Mass. Mutual Life Ins. Co.* v. *United States, supra.*

The disallowance of the taxpayer's donation to the campaign for a referendum was clearly in accord with the regulation; the regulation is not in conflict with the statute and is based on sound reasons of public policy. Hence, there is no basis for a reversal of the court's decision on this issue.

IV

In 1912 the California Central Railroad Company issued its bonds at a discount. In the consolidated returns for 1923, 1924, 1925 and 1926, filed

by that company, the taxpayer corporation, and another corporation, the Commissioner disallowed as a deduction the portion of the amortization of discount attributable to bonds held by the taxpayer corporation. The right of a taxpayer to deduct amortized discount over the life of bonds where bonds are issued at a discount is not derived from express provision in the Revenue Act, but is based on Article 545 of Regulations 62, 65 and 69 (*infra,* pp. 18, 20, 22).[2]

The court below upheld the Commissioner's view that the allowance in this case was prohibited because the amortization deduction arose out of an intercompany transaction in respect to which no deduction should be allowed under Article 636 of Regulations 62 and 65 (*infra,* pp. 20, 21), and Article 635 of Regulations 69 (*infra,* p. 22). The Court of Appeals for the District of Columbia reached the same conclusion in *Helvering* v. *Gulf, Mobile & Northern Railroad Co.,* decided May 14, 1934, not yet reported but may be found in 334 C.C.H., p. 9917. That was the view of the Board in this case, the *Gulf, Mobile & Northern Railroad* case

[2] It is not at all clear that this provision of the regulations is valid with respect to bonds issued at a discount before 1912. Cf. *Old Colony R. Co.* v. *Commissioner*, 284 U.S. 552. That question is raised in the Government's petition in *Helvering* v. *Union Pacific R. Co.*, No. 51, October Term, 1934. If the argument there advanced is sound, it affords an additional reason why the taxpayer is not entitled to the deduction claimed here.

(22 B.T.A. 233), and *New Orleans, Texas & Mexico Railway Co.* v. *Commissioner,* 6 B.T.A. 436.

These decisions do not appear to be in conflict with any other cases involving intercompany transactions of affiliated corporations. See *Charles Ilfeld Co.* v. *Hernandez,* No. 579, October Term, 1933, decided April 2, 1934; *Burnet* v. *Aluminum Goods Co.,* 287 U.S. 544; *Atlantic City Co.* v. *Commissioner,* 288 U.S. 152; *Commissioner* v. *Liberty Nat. Co.,* 58 F. (2d) 57 (C.C.A. 10th), certiorari denied, 287 U.S. 603; *Fidelity Nat. Bank & T. Co.* v. *Commissioner,* 39 F. (2d) 58 (C.C.A. 8th); *Appeal of Gould Coupler Co.,* 5 B.T.A. 499.

CONCLUSION

The petition presents no question of sufficient importance to justify a review by this Court and it should therefore be denied.

Respectfully submitted.

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JULY 1934.

APPENDIX

Revenue Act of 1921, c. 136, 42 Stat. 227, 254, 260:

SEC. 234. (a) That in computing the net income of a corporation subject to the tax imposed by section 230 there shall be allowed as deductions:

(1) All the ordinary and necessary expenses paid or incurred during the taxable year in carrying on any trade or business, including a reasonable allowance for salaries or other compensation for personal services actually rendered, and including rentals or other payments required to be made as a condition to the continued use or possession of property to which the corporation has not taken or is not taking title, or in which it has no equity;

* * * * *

(9) In the case of mines, oil and gas wells, other natural deposits, and timber, a reasonable allowance for depletion and for depreciation of improvements, according to the peculiar conditions in each case, based upon cost including cost of development not otherwise deducted: *Provided,* That in the case of such properties acquired prior to March 1, 1913, the fair market value of the property (or the taxpayer's interest therein) on that date shall be taken in lieu of cost up to that date: *Provided further,* That in the case of mines, oil and gas wells, discovered by the taxpayer, on or after March 1, 1913, and not acquired as the result of purchase of a proven tract or lease, where the fair

market value of the property is materially disproportionate to the cost, the depletion allowance shall be based upon the fair market value of the property at the date of the discovery, or within thirty days thereafter: *And provided further,* That such depletion allowance based on discovery value shall not exceed the net income, computed without allowance for depletion, from the property upon which the discovery is made, except where such net income so computed is less than the depletion allowance based on cost or fair market value as of March 1, 1913; such reasonable allowance in all the above cases to be made under rules and regulations to be prescribed by the Commissioner with the approval of the Secretary. In the case of leases the deductions allowed by this paragraph shall be equitably apportioned between the lessor and lessee;

* * * * *

SEC. 240. (a) That corporations which are affiliated within the meaning of this section may, for any taxable year beginning on or after January 1, 1922, make separate returns or, under regulations prescribed by the Commissioner with the approval of the Secretary, make a consolidated return of net income for the purpose of this title, in which case the taxes thereunder shall be computed and determined upon the basis of such return. If return is made on either of such bases, all returns thereafter made shall be upon the same basis unless permission to change the basis is granted by the Commissioner.

(b) In any case in which a tax is assessed upon the basis of a consolidated return, the total tax shall be computed in the first instance as a unit and shall then be assessed

upon the respective affiliated corporations in such proportions as may be agreed upon among them, or, in the absence of any such agreement, then on the basis of the net income properly assignable to each. There shall be allowed in computing the income tax only one specific credit computed as provided in subdivision (b) of section 236."

Revenue Act of 1924, c. 234, 43 Stat. 253:

SEC. 204. (b) The basis for determining the gain or loss from the sale or other disposition of property acquired before March 1, 1913, shall be (A) the cost of such property (or, in the case of such property as is described in paragraph (1), (4), or (5), of subdivision (a), the basis as therein provided), or (B) the fair market value of such property as of March 1, 1913, whichever is greater. In determining the fair market value of stock in a corporation as of March 1, 1913, due regard shall be given to the fair market value of the assets of the corporation as of that date.

(c) The basis upon which depletion, exhaustion, wear and tear, and obsolescence are to be allowed in respect of any property shall be the same as is provided in subdivision (a) or (b) for the purpose of determining the gain or loss upon the sale or other disposition of such property, except that in the case of mines, oil and gas wells, discovered by the taxpayer after February 28, 1913, and not acquired as the result of purchase of a proven tract or lease, where the fair market value of the property is materially disproportionate to the cost, the basis for depletion shall be the fair market value of the property at the date of discovery or within thirty days thereafter; but such depletion allowance based on discovery value

shall not exceed 50 per centum of the net income (computed without allowance for depletion) from the property upon which the discovery was made, except that in no case shall the depletion allowance be less than it would be if computed without reference to discovery value. (U.S.C., Title 26, Sec. 935.)

SEC. 234. (a) In computing the net income of a corporation subject to the tax imposed by section 230 there shall be allowed as deductions:

(1) All the ordinary and necessary expenses paid or incurred during the taxable year in carrying on any trade or business, including a reasonable allowance for salaries or other compensation for personal services actually rendered, and including rentals or other payments required to be made as a condition to the continued use or possession of property to which the corporation has not taken or is not taking title, or in which it has no equity;

* * * * *

(8) In the case of mines, oil and gas wells, other natural deposits, and timber, a reasonable allowance for depletion and for depreciation of improvements, according to the peculiar conditions in each case; such reasonable allowance in all cases to be made under rules and regulations to be prescribed by the Commissioner with the approval of the Secretary. In the case of leases the deductions allowed by this paragraph shall be equitably apportioned between the lessor and lessee;

(U.S.C., Title 26, Sec. 986.)

SEC. 240. (a) Corporations which are affiliated within the meaning of this section may, for any taxable year, make separate returns or, under regulations prescribed by the Commissioner with the approval of the Secre-

tary, make a consolidated return of net income for the purpose of this title, in which case the taxes thereunder shall be computed and determined upon the basis of such return. If return is made on either of such bases, all returns thereafter made shall be upon the same basis unless permission to change the basis is granted by the Commissioner.

(b) In any case in which a tax is assessed upon the basis of a consolidated return, the total tax shall be computed in the first instance as a unit and shall then be assessed upon the respective affiliated corporations in such proportions as may be agreed upon among them, or, in the absence of any such agreement, then on the basis of the net income properly assignable to each. There shall be allowed in computing the income tax only one specific credit computed as provided in subdivision (b) of section 236. (U.S.C., Title 26, Sec. 993.)

Sections 204 (b) and (c) (U.S.C.App., Title 26, Sec. 935), 234 (a) (1) and (8) (U.S.C.App., Title 26, Sec. 986), and 240 (a) and (b) (U.S.C.App., Title 26, Sec. 993) of the Revenue Act of 1926, c. 27, 44 Stat. 9, are substantially identical with the above-quoted provisions of the Revenue Act of 1924.

Treasury Regulations 62:

ART. 545. *Sale and retirement of corporate bonds.*— * * *

* * * * *

(3) (a) If bonds are issued by a corporation at a discount, the net amount of such discount is deductible and should be prorated or amortized over the life of the bonds.

* * * * *

ART. 562. *Donations.*—Corporations are not entitled to deduct from gross income charitable or other contributions which individuals may deduct under paragraph (11) of section 214 (a). Donations made by a corporation for purposes connected with the operation of its business, however, when limited to charitable institutions, hospitals, or educational institutions conducted for the benefit of its employees or their dependents, are a proper deduction as ordinary and necessary expenses. Donations which legitimately represent a consideration for a benefit flowing directly to the corporation as an incident of its business are allowable deductions from gross income. For example, a street railway corporation may donate a sum of money to an organization intending to hold a convention in the city in which it operates, with the reasonable expectation that the holding of such convention will augment its income through a greater number of people using the cars. Sums of money expended for lobbying purposes, the promotion or defeat of legislation, the exploitation of propaganda, including advertising other than trade advertising, and contributions for campaign expenses, are not deductible from gross income.

ART. 563. *Sale of capital stock, bonds, and capital assets.*—A corporation sustains no deductible loss from the sale of its capital stock. See article 543. If it sells its bonds at a discount, the amount of such discount is treated in the same way as interest paid, and if it retires its bonds at a price in excess of the issuing price, such excess may usually be deducted as expense. See articles 545 and 848. * * *

ART. 636. *Consolidated net income of affiliated corporations.*—Subject to the provisions covering the determination of taxable net income of separate corporations, and subject further to the elimination of intercompany transactions (whether or not resulting in any profit or loss to the separate corporations), the consolidated taxable net income shall be the combined net income of the several corporations consolidated. Only one specific credit of $2,000, as provided in section 236 (b) and article 591, shall be allowed the consolidated group, and this only in case the net income of the group does not exceed $25,000; but if such net income is more than $25,000, the tax imposed by section 230 shall not exceed the tax which would be payable if the $2,000 were allowed, plus the amount of the net income in excess of $25,000. In respect of the statement of gross income and deductions and the several schedules required under Form 1120, a corporation filing a consolidated return is required to prepare and file such statements and schedules in columnar form to the end that the details of the items of gross income and deductions for each corporation included in the consolidation may be readily audited.

Treasury Regulations 65:

ART. 545. *Sale and retirement of corporate bonds.*—* * *

* * * * *

(3) (a) If bonds are issued by a corporation at a discount, the net amount of such discount is deductible and should be prorated or amortized over the life of the bonds. * * *

ART. 562. *Donations.*—Corporations are not entitled to deduct from gross income

contributions or gifts which individuals may deduct under paragraph (10) of section 214 (a). Donations made by a corporation for purposes connected with the operation of its business, however, when limited to charitable institutions, hospitals, or educational institutions conducted for the benefit of its employees or their dependents, are a proper deduction as ordinary and necessary expenses. Donations which legitimately represent a consideration for a benefit flowing directly to the corporation as an incident of its business are allowable deductions from gross income. For example, a street railway corporation may donate a sum of money to an organization intending to hold a convention in the city in which it operates, with the reasonable expectation that the holding of such convention will augment its income through a greater number of people using the cars. Sums of money expended for lobbying purposes, the promotion or defeat of legislation, the exploitation of propaganda, including advertising other than trade advertising, and contributions for campaign expenses, are not deductible from gross income.

ART. 563. *Sale of capital stock, bonds, and capital assets.*—A corporation sustains no deductible loss from the sale of its capital stock. See article 543. If it sells its bonds at a discount, the amount of such discount is treated in the same way as interest paid, and if it retires its bonds at a price in excess of the issuing price, such excess may usually be deducted as expense. See article 545. * * *

ART. 636. *Consolidated net income of affiliated corporations.*—Subject to the provisions covering the determination of taxable net income of separate corporations,

and subject further to the elimination of intercompany transactions (whether or not resulting in any profit or loss to the separate corporations), the consolidated taxable net income shall be the combined net income of the several corporations consolidated. Only one specific credit of $2,000, as provided in section 236 (b) and article 591, shall be allowed the consolidated group, and this only in case the net income of the group does not exceed $25,000; but if such net income is more than $25,000, the tax imposed by section 230 shall not exceed the tax which would be payable if the $2,000 credit were allowed, plus the amount of the net income in excess of $25,000. In respect of the statement of gross income and deductions and the several schedules required under Form 1120, a corporation filing a consolidated return is required to prepare and file such statements and schedules in columnar form to the end that the details of the items of gross income and deductions for each corporation included in the consolidation may be readily audited.

Treasury Regulations 69, promulgated under the Revenue Act of 1926:

Articles 545, 562, 563 and 635 of Regulations 69 are substantially the same as Articles 545, 562, 563 and 636 of Regulations 65, above quoted.

U. S. GOVERNMENT PRINTING OFFICE: 1934